

SLR:LDM:BDM  
F.#2010V00520

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

ORDER OF DELIVERY

Civil Action No.  
10-2312 (SJ)

ONE POLISHED DIAMOND WEIGHING  
APPROXIMATELY SIXTY-EIGHT CARATS,

Defendant In Rem.

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WHEREAS, on or about February 21, 2010, upon the filing of a verified complaint in rem, the United States District Court for the Eastern District of New York (the "Court") issued a warrant for the arrest of articles in rem (the "Warrant"), finding probable cause to believe that one polished diamond weighing approximately sixty-eight carats (the "Defendant Diamond") was subject to seizure and forfeiture to the United States of America, pursuant to (A) 19 U.S.C. § 1595a(c) as merchandise introduced into the United States contrary to law in violation of 18 U.S.C. §§ 545, 2314 and/or 2315, (B) 18 U.S.C. § 545 as merchandise introduced into the United States contrary to law in violation of 18 U.S.C. §§ 545, 2314 and/or 2315, and (C) 18 U.S.C. § 981(a)(1)(C) as property which constitutes or is derived from proceeds traceable to violations of 18 U.S.C. §§ 545, 2314 and/or 2315;

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WHEREAS, the Warrant and the verified complaint in rem were timely served on all potential claimants by duly authorized agents of the United States, and notice of this action was also published on an official government internet website;

WHEREAS, Taly Diamonds, LLC ("Taly") and Higgs Diamonds Proprietary Limited ("Higgs" and, together with Taly, the "Claimants") have represented that they each have an ownership interest in the Defendant Diamond and, on June 17, 2010 and July 10, 2010, respectively, filed Verified Claims to the Defendant Diamond in accordance with Rule G(5)(a) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions;

WHEREAS, on August 26, 2010, Belgo-Nevada Ltd. ("Belgo") and Dennis Van Kerrebroeck ("Van Kerrebroeck") filed a Verified Claim asserting an interest in the Defendant Diamond;

WHEREAS, on September 23, 2011, Belgo and Van Kerrebroeck withdrew their claims to the Defendant Diamond by filing a Notice of Withdrawal, which was "So Ordered" by the Court on September 26, 2011;

WHEREAS, with the exception of Taly, Higgs, Belgo and Van Kerrebroeck, no other person or entity has filed a claim to the Defendant Diamond, and the time for filing any such claim has elapsed;

WHEREAS, Plaintiff (the "Government") is in receipt of a request from the Republic of South Africa for assistance

pursuant to a Mutual Legal Assistance Treaty (the "MLAT") entered into with the United States;

WHEREAS, the MLAT seeks, among other requests, the assistance of the United States in the production of the Defendant Diamond for use as evidence in connection with criminal fraud charges against Van Kerrebroeck, which are currently pending in the Specialised Commercial Crime Division of the South Gauteng High Court in Johannesburg, South Africa (the "Criminal Proceeding"); and

WHEREAS, in order to resolve all remaining claims to the Defendant Diamond, the Government entered into a Stipulation of Settlement with the Claimants in which the Government agreed to return the Defendant Diamond to an authorized representative of Christie's Inc. ("Christie's") upon the earlier of (i) the conclusion of the Criminal Proceeding or (ii) August 27, 2012, for sale in accordance with the terms of an agreement entered into between Christie's and the Claimants on or about June 27, 2012 (the "Auction Agreement");

UPON the joint application of plaintiff United States of America and the Claimants

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The United States Department of Homeland Security, and agents thereof, be, and the same hereby are, authorized to transport the Defendant Diamond to the Republic of South Africa

for use as evidence in the Criminal Proceeding in accordance with the MLAT.

2. The United States Department of Homeland Security and agents thereof are further directed to return the Defendant Diamond to the United States upon the earlier of (i) the conclusion of the Criminal Proceeding or (ii) August 27, 2012, where it shall be released to an authorized representative of Christie's in accordance with the terms of the Auction Agreement and the Stipulation of Settlement.

3. The Warrant previously executed shall be vacated.

4. The Court shall retain jurisdiction of this action in order to enforce the terms of the Stipulation of Settlement.

5. The Clerk of this Court shall forward six (6) certified copies of this Order of Delivery to the United States Attorney for the Eastern District of New York, Attention: Assistant United States Attorney Brian D. Morris, 271 Cadman Plaza East, 7th Floor, Brooklyn, New York 11201, and shall then terminate the Claimants from this action and mark this case closed.

Dated: Brooklyn, New York  
~~July 1~~, 2012

*Aug*

/s/(SJ)

  
HONORABLE STERLING JOHNSON, JR.  
SENIOR UNITED STATES DISTRICT JUDGE